

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

NELLA CITINO and DANIEL MIZELL, on
behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

AT&T, INC.,

Defendant.

Case No.: 3:24-cv-00843

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiffs Nella Citino and Daniel Mizell (“Plaintiffs”) bring this Class Action Petition (“Petition”) against AT&T, Inc. (“AT&T” or “Defendant”) as individuals and on behalf of all others similarly situated, and allege, upon personal knowledge as to their own actions and their counsels’ investigation, and upon information and belief as to all other matters, as follows:

SUMMARY OF ACTION

1. Plaintiffs bring this class action against Defendant for its failure to properly secure and safeguard sensitive information of its customers.
2. Defendant is one of the largest wireless carriers and internet providers in the country.
3. Plaintiffs’ and Class Members’ sensitive personally identifiable information (“PII”)—which they entrusted to Defendant on the mutual understanding that Defendant would protect it against disclosure—was targeted, compromised, and unlawfully accessed due to a targeted cyberattack that was announced in March 2024 (the “Data Breach”).

4. AT&T collected and maintained certain personally identifiable information of Plaintiffs and the putative Class Members (defined below), who are (or were) customers at Defendant.

5. The PII compromised in the Data Breach included Plaintiffs' and Class Members' full names, addresses, dates of birth, email addresses, phone numbers, Social Security numbers, and AT&T account numbers and passcodes.

6. The PII compromised in the Data Breach was exfiltrated by cybercriminals and remains in the hands of those cybercriminals who target PII for its value to identity thieves.

7. As a result of the Data Breach, Plaintiffs and approximately 73 million Class Members (including 7.6 million current customers and 65.4 million former customers),¹ suffered concrete injuries in fact including, but not limited to: (i) invasion of privacy; (ii) theft of their PII; (iii) lost or diminished value of their PII; (iv) lost time and opportunity costs associated with attempting to mitigate the actual consequences of the Data Breach; (v) loss of benefit of the bargain; (vi) lost opportunity costs associated with attempting to mitigate the actual consequences of the Data Breach; (vii) statutory damages; (viii) nominal damages; and (ix) the continued and certainly increased risk to their PII, which: (a) remains unencrypted and available for unauthorized third parties to access and abuse; and (b) remains backed up in Defendant's possession and is subject to further unauthorized disclosures so long as Defendant fails to undertake appropriate and adequate measures to protect the PII.

¹ Aimee Ortiz, *AT&T Resets Millions of Passcodes After Customer Records Are Leaked*, N.Y. Times (Mar. 30, 2024), <https://www.nytimes.com/2024/03/30/business/att-passcodes-reset-data-breach.html> (last visited Apr. 4, 2024).

8. The Data Breach was a direct result of Defendant's failure to implement adequate and reasonable cybersecurity procedures and protocols necessary to protect consumers' PII from a foreseeable and preventable cyberattack.

9. Moreover, upon information and belief, Defendant was targeted for a cyberattack due to its status as a telecom company that collects and maintains highly valuable PII on its systems.

10. Defendant maintained, used, and shared the PII in a reckless manner. In particular, the PII was used and transmitted by Defendant in a condition vulnerable to cyberattacks. Upon information and belief, the mechanism of the cyberattack and potential for improper disclosure of Plaintiffs' and Class Members' PII was a known risk to Defendant, and thus Defendant was on notice that failing to take steps necessary to secure the PII from those risks left that property in a dangerous condition.

11. Defendant disregarded the rights of Plaintiffs and Class Members by, *inter alia*, intentionally, willfully, recklessly, or negligently failing to take adequate and reasonable measures to ensure its data systems were protected against unauthorized intrusions; failing to take standard and reasonably available steps to prevent the Data Breach; and failing to provide Plaintiffs and Class Members prompt and accurate notice of the Data Breach.

12. Plaintiffs' and Class Members' identities are now at risk because of Defendant's negligent conduct because the PII that Defendant collected and maintained has been accessed and acquired by data thieves.

13. Armed with the PII accessed in the Data Breach, data thieves have already engaged in identity theft and fraud and can in the future commit a variety of crimes, including opening new financial accounts in Class Members' names, taking out loans in Class Members' names, using

Class Members' information to obtain government benefits, filing fraudulent tax returns using Class Members' information, obtaining driver's licenses in Class Members' names, and giving false information to police during an arrest.

14. As a result of the Data Breach, Plaintiffs and Class Members have been exposed to a heightened and imminent risk of fraud and identity theft. Plaintiffs and Class Members must now and in the future closely monitor their financial accounts to guard against identity theft.

15. Plaintiffs and Class Members may also incur out of pocket costs, *e.g.*, for purchasing credit monitoring services, credit freezes, credit reports, or other protective measures to deter and detect identity theft.

16. Plaintiffs bring this class action lawsuit on behalf all those similarly situated to address Defendant's inadequate safeguarding of Class Members' PII that it collected and maintained, and for failing to provide timely and adequate notice to Plaintiffs and other Class Members that their information had been subject to unauthorized access by an unknown third party and precisely what specific type of information was accessed.

17. Through this Petition, Plaintiffs seek to remedy these harms on behalf of themselves and all similarly situated individuals whose PII was accessed during the Data Breach.

18. Plaintiffs and Class Members have a continuing interest in ensuring that their information is and remains safe, and they should be entitled to injunctive and other equitable relief.

JURISDICTION AND VENUE

19. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1332(d) because this is a class action wherein the amount in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, there are more than 100 members in the proposed class, and at least one member of the class is a citizen of a state different from Defendant.

20. This Court has personal jurisdiction over Defendant because its principal place of business is in the Dallas Division of the Northern District of Texas, and the acts and omissions giving rise to Plaintiffs' claims occurred in and emanated from this District.

21. Venue is proper under 18 U.S.C § 1391(b)(1) because Defendant's principal place of business is in the Dallas Division of the Northern District of Texas, and the acts and omissions giving rise to Plaintiffs' claims occurred in and emanated from this District.

PARTIES

22. Plaintiff Nella Citino is a natural person, resident, and citizen of the state of Ohio residing in Franklin County.

23. Plaintiff Daniel Mizell is a natural person, resident, and citizen of the state of Louisiana residing in Livingston Parrish.

24. Defendant AT&T, Inc. is a corporation organized under the state laws of Delaware with its principal place of business located at 208 S. Akard St., Dallas, Texas 75202. Defendant is a citizen of Texas. The registered agent for service of process is CT Corporation System, 1999 Bryan St., Suite 900, Dallas, Texas 75201.

FACTUAL ALLEGATIONS

Defendant's Business

25. Defendant is one of the largest wireless carriers and internet providers in the country.

26. Plaintiffs and Class Members are current and former customers of Defendant.

27. In the course of their relationship, customers, including Plaintiffs and Class Members, provided Defendant with at least the following: names, dates of birth, phone numbers, Social Security numbers, and other sensitive information.

28. Upon information and belief, in the course of collecting PII from customers, including Plaintiffs, Defendant promised to provide confidentiality and adequate security for the data it collected from customers through its applicable privacy policy and through other disclosures in compliance with statutory privacy requirements.

29. For instance, Defendant provides on its website that:

We work hard to safeguard your information using technology controls and organizational controls. We protect our computer storage and network equipment. We require employees to authenticate themselves to access sensitive data. We limit access to personal information to the people who need access for their jobs. And we require callers and online users to authenticate themselves before we provide account information.²

30. Plaintiffs and the Class Members, as customers of Defendant, relied on these promises and on this sophisticated business entity to keep their sensitive PII confidential and securely maintained, to use this information for business purposes only, and to make only authorized disclosures of this information. Consumers, in general, demand security to safeguard their PII, especially when their Social Security numbers and other sensitive PII are involved.

The Data Breach

31. In or about March 2024, the details of approximately 73 million former and current AT&T Customer accounts, including full names, email addresses, mailing addresses, phone numbers, dates of birth, Social Security numbers, and AT&T account numbers and passcodes were leaked online.³

32. “Details of the leaked data first appeared online in August 2021, when a known threat actor, ShinyHunters, offered up the records for sale on a hacking forum, with a ‘buy it now’

² AT&T, Inc., *AT&T Privacy Notice*, <https://about.att.com/privacy/privacy-notice.html> (last visited Apr. 4, 2024).

³ Ortiz, *supra* note 1.

price of one million dollars.”⁴ As of that time, Defendant claimed that the leaked dataset “does not appear to have come from our systems.”⁵

33. In March 2024, “that same data appears to have been made available for free by another threat actor, MajorNelson.”⁶ As of March 22, 2024, AT&T repeated its claim that it “ha[d] no indications of a compromise of our systems. We determined in 2021 that the information offered on this online forum did not appear to have come from our systems. This appears to be the same dataset that has been recycled several times on this forum.”⁷

34. AT&T then changed its tune, acknowledging on March 30, 2024 that the information of 7.6 million customers and 65.4 former customers and been affected by the Data Breach.⁸

35. Defendant had obligations created by the FTC Act, contract, common law, and industry standards to keep Plaintiffs’ and Class Members’ PII confidential and to protect it from unauthorized access and disclosure.

36. Defendant did not use reasonable security procedures and practices appropriate to the nature of the sensitive information they were maintaining for Plaintiffs and Class Members, such as encrypting the information or deleting it when it is no longer needed, causing the exposure of PII.

⁴ *Id.*

⁵ Lawrence Abrams, *AT&T denies data breach after hacker auctions 70 million user database*, BleepingComputer (August 20, 2021), <https://www.bleepingcomputer.com/news/security/atandt-denies-data-breach-after-hacker-auctions-70-million-user-database/> (last visited Apr. 4, 2024).

⁶ Jack Turner, *70 Million AT&T Accounts Leaked Online – How to Check Yours*, Tech.co (Mar. 23, 2024), <https://tech.co/news/att-accounts-leaked-70-million-check> (last visited Apr. 4, 2024).

⁷ Zack Whittaker, *AT&T won’t say how its customers’ data spilled online*, TechCrunch (Mar. 22, 2024), <https://techcrunch.com/2024/03/22/att-customers-data-leak-online/> (last visited Apr. 4, 2024).

⁸ Ortiz, *supra* note 1.

37. The attacker accessed and acquired files Defendant shared with a third party containing unencrypted PII of Plaintiffs and Class Members. Plaintiffs' and Class Members' PII was accessed and stolen in the Data Breach.

38. Plaintiffs further believe that their PII and that of Class Members was subsequently sold on the dark web following the Data Breach, as that is the *modus operandi* of cybercriminals that commit cyberattacks of this type.

Data Breaches Are Preventable

39. Defendant did not use reasonable security procedures and practices appropriate to the nature of the sensitive information they were maintaining for Plaintiffs and Class Members, such as encrypting the information or deleting it when it is no longer needed, causing the exposure of PII.

40. Defendant could have prevented this Data Breach by, among other things, properly encrypting or otherwise protecting their equipment and computer files containing PII.

41. As explained by the Federal Bureau of Investigation, “[p]revention is the most effective defense against ransomware and it is critical to take precautions for protection.”⁹

42. To prevent and detect cyberattacks and/or ransomware attacks, Defendant could and should have implemented, as recommended by the United States Government, the following measures:

- Implement an awareness and training program. Because end users are targets, employees and individuals should be aware of the threat of ransomware and how it is delivered.
- Enable strong spam filters to prevent phishing emails from reaching the end users and authenticate inbound email using technologies like Sender Policy Framework (SPF), Domain Message Authentication Reporting and Conformance (DMARC), and

⁹ FBI, *How to Protect Your Networks from Ransomware*, at 3, <https://www.fbi.gov/file-repository/ransomware-prevention-and-response-for-cisos.pdf/view> (last visited Apr. 4, 2024).

DomainKeys Identified Mail (DKIM) to prevent email spoofing.

- Scan all incoming and outgoing emails to detect threats and filter executable files from reaching end users.
- Configure firewalls to block access to known malicious IP addresses.
- Patch operating systems, software, and firmware on devices. Consider using a centralized patch management system.
- Set anti-virus and anti-malware programs to conduct regular scans automatically.
- Manage the use of privileged accounts based on the principle of least privilege: no users should be assigned administrative access unless absolutely needed; and those with a need for administrator accounts should only use them when necessary.
- Configure access controls—including file, directory, and network share permissions—with least privilege in mind. If a user only needs to read specific files, the user should not have write access to those files, directories, or shares.
- Disable macro scripts from office files transmitted via email. Consider using Office Viewer software to open Microsoft Office files transmitted via email instead of full office suite applications.
- Implement Software Restriction Policies (SRP) or other controls to prevent programs from executing from common ransomware locations, such as temporary folders supporting popular Internet browsers or compression/decompression programs, including the AppData/LocalAppData folder.
- Consider disabling Remote Desktop protocol (RDP) if it is not being used.
- Use application whitelisting, which only allows systems to execute programs known and permitted by security policy.
- Execute operating system environments or specific programs in a virtualized environment.
- Categorize data based on organizational value and implement physical and logical separation of networks and data for different organizational units.¹⁰

¹⁰ *Id.* at 3-4.

43. To prevent and detect cyberattacks or ransomware attacks, Defendant could and should have implemented, as recommended by the Microsoft Threat Protection Intelligence Team, the following measures:

Secure internet-facing assets

- Apply latest security updates
- Use threat and vulnerability management
- Perform regular audit; remove privileged credentials;

Thoroughly investigate and remediate alerts

- Prioritize and treat commodity malware infections as potential full compromise;

Include IT Pros in security discussions

- Ensure collaboration among [security operations], [security admins], and [information technology] admins to configure servers and other endpoints securely;

Build credential hygiene

- Use [multifactor authentication] or [network level authentication] and use strong, randomized, just-in-time local admin passwords;

Apply principle of least-privilege

- Monitor for adversarial activities
- Hunt for brute force attempts
- Monitor for clearing of Event Logs
- Analyze logon events;

Harden infrastructure

- Use Windows Defender Firewall
- Enable tamper protection
- Enable cloud-delivered protection
- Turn on attack surface reduction rules and [Antimalware Scan Interface] for Office [Visual Basic for Applications].¹¹

¹¹ See Microsoft Corp., *Human-operated ransomware attacks: A preventable disaster* (Mar. 5, 2020), <https://www.microsoft.com/security/blog/2020/03/05/human-operated-ransomware-attacks-a-preventable-disaster/> (last visited Apr. 4, 2024).

44. Given that Defendant was storing the PII of its current and former customers, Defendant could and should have implemented all the above measures to prevent and detect cyberattacks.

45. The occurrence of the Data Breach indicates that Defendant failed to adequately implement one or more of the above measures to prevent cyberattacks, resulting in the Data Breach and data thieves acquiring and accessing the PII of more than seventy million individuals, including that of Plaintiffs and Class Members.

Defendant Acquires, Collects, And Stores Its Customers' PII

46. Defendant acquires, collects, and stores a massive amount of PII on its current and former customers.

47. As a condition of obtaining products and/or services at Defendant, Defendant requires that customers and other personnel entrust it with highly sensitive personal information.

48. By obtaining, collecting, and using Plaintiffs' and Class Members' PII, Defendant assumed legal and equitable duties and knew or should have known that it was responsible for protecting Plaintiffs' and Class Members' PII from disclosure.

49. Plaintiffs and the Class Members have taken reasonable steps to maintain the confidentiality of their PII and would not have entrusted it to Defendant absent a promise to safeguard that information.

50. Upon information and belief, in the course of collecting PII from customers, including Plaintiffs, Defendant promised to provide confidentiality and adequate security for their data through its applicable privacy policy and through other disclosures in compliance with statutory privacy requirements.

51. Indeed, Defendant provides on its website that:

We work hard to safeguard your information using technology controls and organizational controls. We protect our computer storage and network equipment. We require employees to authenticate themselves to access sensitive data. We limit access to personal information to the people who need access for their jobs. And we require callers and online users to authenticate themselves before we provide account information.¹²

52. Plaintiffs and the Class Members relied on Defendant to keep their PII confidential and securely maintained, to use this information for business purposes only, and to make only authorized disclosures of this information.

Defendant Knew, or Should Have Known, of the Risk Because Telecom Companies in Possession of PII Are Particularly Susceptible To Cyberattacks

53. Defendant's data security obligations were particularly important given the substantial increase in cyberattacks and/or data breaches targeting telecom companies that collect and store PII, like Defendant, preceding the date of the breach.

54. Data breaches, including those perpetrated against telecom companies that store PII in their systems, have become widespread.

55. In the third quarter of the 2023 fiscal year alone, 733 organizations experienced data breaches or similar compromises, resulting in 66,658,764 individuals' personal information being compromised.¹³

56. In light of recent high profile data breaches at other industry leading companies, including Microsoft (250 million records, December 2019), Wattpad (268 million records, June 2020), Facebook (267 million users, April 2020), Estee Lauder (440 million records, January 2020), Whisper (900 million records, March 2020), and Advanced Info Service (8.3 billion

¹² AT&T, *supra* note 2.

¹³ See Identity Theft Resource Center, *ITRC Q3 Data Breach Analysis* (2023), <https://www.idtheftcenter.org/publication/q3-data-breach-2023-analysis/> (last visited Apr. 4, 2024).

records, May 2020), Defendant knew or should have known that the PII that they collected and maintained would be targeted by cybercriminals.

57. Indeed, cyberattacks, such as the one experienced by Defendant, have become so notorious that the Federal Bureau of Investigation (“FBI”) and U.S. Secret Service have issued a warning to potential targets so they are aware of, and prepared for, a potential attack. As one report explained, smaller entities that store PII are “attractive to ransomware criminals . . . because they often have lesser IT defenses and a high incentive to regain access to their data quickly.”¹⁴

58. Additionally, as companies become more dependent on computer systems to run their business,¹⁵ such as on account of working remotely as a result of the Covid-19 pandemic, and the Internet of Things (“IoT”), the danger posed by cybercriminals is magnified, thereby highlighting the need for adequate administrative, physical, and technical safeguards.¹⁶

59. Defendant knew and understood unprotected or exposed PII in the custody of telecom companies, like Defendant, is valuable and highly sought after by nefarious third parties seeking to illegally monetize that PII through unauthorized access.

60. At all relevant times, Defendant knew, or reasonably should have known, of the importance of safeguarding the PII of Plaintiffs and Class Members and of the foreseeable consequences that would occur if Defendant’s data security system was breached, including,

¹⁴ Ben Kochman, *FBI, Secret Service Warn of Targeted Ransomware*, Law360 (Nov. 18, 2019), <https://www.law360.com/consumerprotection/articles/1220974/fbi-secret-service-warn-of-targeted-ransomware> (last visited Apr. 4, 2024).

¹⁵ Danny Brando, *et al.*, *Implications of Cyber Risk for Financial Stability*, The Federal Reserve (May 12, 2022), <https://www.federalreserve.gov/econres/notes/feds-notes/implications-of-cyber-risk-for-financial-stability-20220512.html> (last visited Apr. 4, 2024).

¹⁶ Dr. Suleyman Ozarslan, *Key Threats and Cyber Risks Facing Financial Services and Banking Firms in 2022*, PICUSLABS (Mar. 24, 2022), <https://www.picussecurity.com/key-threats-and-cyber-risks-facing-financial-services-and-banking-firms-in-2022> (last visited Apr. 4, 2024).

specifically, the significant costs that would be imposed on Plaintiffs and Class Members as a result of a breach.

61. Plaintiffs and Class Members now face years of constant surveillance of their financial and personal records, monitoring, and loss of rights. The Class is incurring and will continue to incur such damages in addition to any fraudulent use of their PII.

62. The injuries to Plaintiffs and Class Members were directly and proximately caused by Defendant's failure to implement or maintain adequate data security measures for the PII of Plaintiffs and Class Members.

63. The ramifications of Defendant's failure to keep secure the PII of Plaintiffs and Class Members are long lasting and severe. Once PII is stolen—particularly Social Security numbers—fraudulent use of that information and damage to victims may continue for years.

64. As a telecom company in custody of the PII of its customers, Defendant knew, or should have known, the importance of safeguarding PII entrusted to it by Plaintiffs and Class Members, and of the foreseeable consequences if its data security systems were breached. This includes the significant costs imposed on Plaintiffs and Class Members as a result of a breach. Defendant failed, however, to take adequate cybersecurity measures to prevent the Data Breach.

Value Of Personally Identifying Information

65. The Federal Trade Commission ("FTC") defines identity theft as "a fraud committed or attempted using the identifying information of another person without authority."¹⁷ The FTC defines "identifying information" as "any name or number that may be used, alone or in conjunction with any other information, to identify a specific person," including, among other things, "[n]ame, Social Security number, date of birth, official State or government issued driver's

¹⁷ 17 C.F.R. § 248.201 (2013).

license or identification number, alien registration number, government passport number, employer or taxpayer identification number.”¹⁸

66. The PII of individuals remains of high value to criminals, as evidenced by the prices they will pay through the dark web. Numerous sources cite dark web pricing for stolen identity credentials.¹⁹

67. For example, PII can be sold at a price ranging from \$40 to \$200.²⁰ Criminals can also purchase access to entire company data breach databases at a price ranging from \$900 to \$4,500.²¹

68. Moreover, Social Security numbers are among the worst kind of PII to have stolen because they may be put to a variety of fraudulent uses and are difficult for an individual to change.

69. According to the Social Security Administration, each time an individual’s Social Security number is compromised, “the potential for a thief to illegitimately gain access to bank accounts, credit cards, driving records, tax and employment histories and other private information increases.”²² Moreover, “[b]ecause many organizations still use SSNs as the primary identifier, exposure to identity theft and fraud remains.”²³

¹⁸ *Id.*

¹⁹ Anita George, *Your personal data is for sale on the dark web. Here’s how much it costs*, Digital Trends (Oct. 16, 2019), <https://www.digitaltrends.com/computing/personal-data-sold-on-the-dark-web-how-much-it-costs/> (last visited Apr. 4, 2024).

²⁰ Brian Stack, *Here’s How Much Your Personal Information Is Selling for on the Dark Web*, Experian (Dec. 6, 2017), <https://www.experian.com/blogs/ask-experian/heres-how-much-your-personal-information-is-selling-for-on-the-dark-web/> (last visited Apr. 4, 2024).

²¹ *In the Dark*, VPNOverview (2019), <https://vpnoverview.com/privacy/anonymous-browsing/in-the-dark/> (last visited Apr. 4, 2024).

²² See Social Security Administration, *Avoid Identity Theft: Protect Social Security Numbers*, <https://www.ssa.gov/phila/ProtectingSSNs.htm> (last visited Apr. 4, 2024).

²³ *Id.*

70. The Social Security Administration stresses that the loss of an individual's Social Security number, as experienced by Plaintiffs and some Class Members, can lead to identity theft and extensive financial fraud:

A dishonest person who has your Social Security number can use it to get other personal information about you. Identity thieves can use your number and your good credit to apply for more credit in your name. Then, when they use the credit cards and don't pay the bills, it damages your credit. You may not find out that someone is using your number until you're turned down for credit, or you begin to get calls from unknown creditors demanding payment for items you never bought. Someone illegally using your Social Security number and assuming your identity can cause a lot of problems.²⁴

71. In fact, "[a] stolen Social Security number is one of the leading causes of identity theft and can threaten your financial health."²⁵ "Someone who has your SSN can use it to impersonate you, obtain credit and open bank accounts, apply for jobs, steal your tax refunds, get medical treatment, and steal your government benefits."²⁶

72. What's more, it is no easy task to change or cancel a stolen Social Security number. An individual cannot obtain a new Social Security number without significant paperwork and evidence of actual misuse. In other words, preventive action to defend against the possibility of misuse of a Social Security number is not permitted; an individual must show evidence of actual, ongoing fraud activity to obtain a new number.

73. Even then, a new Social Security number may not be effective. According to Julie Ferguson of the Identity Theft Resource Center, "[t]he credit bureaus and banks are able to link

²⁴ Social Security Administration, *Identity Theft and Your Social Security Number* (Jul. 2021), <https://www.ssa.gov/pubs/EN-05-10064.pdf> (last visited Apr. 4, 2024).

²⁵ Equifax Inc., <https://www.equifax.com/personal/education/identity-theft/articles/-/learn/social-security-number-identity-theft/> (last visited Apr. 4, 2024).

²⁶ Julia Kagan, *What Is an SSN? Facts to Know About Social Security Numbers*, Investopedia (Feb. 15, 2024), <https://www.investopedia.com/terms/s/ssn.asp> (last visited Apr. 4, 2024).

the new number very quickly to the old number, so all of that old bad information is quickly inherited into the new Social Security number.”²⁷

74. For these reasons, some courts have referred to Social Security numbers as the “gold standard” for identity theft. *Portier v. NEO Tech. Sols.*, No. 3:17-CV-30111, 2019 WL 7946103, at *12 (D. Mass. Dec. 31, 2019) (“Because Social Security numbers are the gold standard for identity theft, their theft is significant Access to Social Security numbers causes long-lasting jeopardy because the Social Security Administration does not normally replace Social Security numbers.”), report and recommendation adopted, No. 3:17-CV-30111, 2020 WL 877035 (D. Mass. Jan. 30, 2020); *see also McFarlane v. Altice USA, Inc.*, 2021 WL 860584, at *272 (citations omitted) (S.D.N.Y. Mar. 8, 2021) (noting that a Social Security number is “arguably ‘the most dangerous type of personal information in the hands of identity thieves’ because it is immutable and can be used to ‘impersonat[e] [the victim] to get medical services, government benefits, . . . tax refunds, [and] employment.’ . . . Unlike a credit card number, which can be changed to eliminate the risk of harm following a data breach, ‘[a] social security number derives its value in that it is immutable,’ and when it is stolen it can ‘forever be wielded to identify [the victim] and target him in fraudulent schemes and identity theft attacks.’”).

75. Similarly, the California state government warns consumers that: “[o]riginally, your Social Security number (SSN) was a way for the government to track your earnings and pay you retirement benefits. But over the years, it has become much more than that. It is the key to a

²⁷ Bryan Naylor, *Victims of Social Security Number Theft Find It’s Hard to Bounce Back*, NPR (Feb. 9, 2015), <http://www.npr.org/2015/02/09/384875839/data-stolen-by-anthem-s-hackers-has-millionsworrying-about-identity-theft> (last visited Apr. 4, 2024).

lot of your personal information. With your name and SSN, an identity thief could open new credit and bank accounts, rent an apartment, or even get a job.”²⁸

76. Based on the foregoing, the information compromised in the Data Breach is significantly more valuable than the loss of, for example, credit card information in a retailer data breach because, there, victims can cancel or close credit and debit card accounts. The information compromised in this Data Breach is impossible to “close” and difficult, if not impossible, to change—Social Security numbers, dates of birth, and names.

77. This data demands a much higher price on the black market. Martin Walter, senior director at cybersecurity firm RedSeal, explained that “[c]ompared to credit card information, personally identifiable information and Social Security numbers are worth more than 10x in price on the black market.”²⁹

78. Among other forms of fraud, identity thieves may obtain driver’s licenses, government benefits, medical services, and housing—and even give false information to police.

79. The fraudulent activity resulting from the Data Breach may not come to light for years. There may be a time lag between when harm occurs versus when it is discovered, as well as between when PII is stolen and when it is used. According to the U.S. Government Accountability Office (“GAO”), which conducted a study regarding data breaches:

[L]aw enforcement officials told us that in some cases, stolen data may be held for up to a year or more before being used to commit identity theft. Further, once stolen data have been sold or posted on the Web, fraudulent use of that information may

²⁸ Cal. Att’y Gen., *Your Social Security Number: Controlling the Key to Identity Theft*, <https://oag.ca.gov/idtheft/facts/your-ssn> (last visited Apr. 4, 2024).

²⁹ Tim Greene, *Anthem hack: personal data stolen sells for 10x price of stolen credit card numbers*, Network World, (Feb. 6, 2015), <https://www.networkworld.com/article/2880366/anthem-hack-personal-data-stolen-sells-for-10x-price-of-stolen-credit-card-numbers.html> (last visited Apr. 4, 2024).

continue for years. As a result, studies that attempt to measure the harm resulting from data breaches cannot necessarily rule out all future harm.³⁰

80. Plaintiffs and Class Members now face years of constant surveillance of their financial and personal records, monitoring, and loss of rights. The Class is incurring and will continue to incur such damages in addition to any fraudulent use of their PII.

Defendant Fails To Comply With FTC Guidelines

81. The Federal Trade Commission (“FTC”) has promulgated numerous guides for businesses which highlight the importance of implementing reasonable data security practices. According to the FTC, the need for data security should be factored into all business decision-making.

82. In 2016, the FTC updated its publication, *Protecting Personal Information: A Guide for Business*, which established cybersecurity guidelines for businesses. These guidelines note that businesses should protect the personal consumer information that they keep; properly dispose of personal information that is no longer needed; encrypt information stored on computer networks; understand their network’s vulnerabilities; and implement policies to correct any security problems.³¹

83. The guidelines also recommend that businesses use an intrusion detection system to expose a breach as soon as it occurs; monitor all incoming traffic for activity indicating someone

³⁰ U.S. Gov’t Accountability Off., *Data Breaches Are Frequent, but Evidence of Resulting Identity Theft Is Limited; However, the Full Extent Is Unknown*, GAO-07-737, at 29 (June 2007), <https://www.gao.gov/assets/gao-07-737.pdf> (last visited Apr. 4, 2024).

³¹ Fed. Trade Comm’n, *Protecting Personal Information: A Guide for Business* (Oct. 2016). https://www.ftc.gov/system/files/documents/plain-language/pdf-0136_proteting-personal-information.pdf (last visited Apr. 4, 2024).

is attempting to hack the system; watch for large amounts of data being transmitted from the system; and have a response plan ready in the event of a breach.³²

84. The FTC further recommends that companies not maintain PII longer than is needed for authorization of a transaction; limit employee access to sensitive data; require that complex passwords be used on networks; use industry-tested methods for security; monitor for suspicious activity on the network; and verify that third-party service providers have implemented reasonable security measures.³³

85. The FTC has brought enforcement actions against businesses for failing to adequately and reasonably protect consumer data, treating the failure to employ reasonable and appropriate measures to protect against unauthorized access to confidential consumer data as an unfair act or practice prohibited by Section 5 of the Federal Trade Commission Act (“FTCA”), 15 U.S.C. § 45. Orders resulting from these actions further clarify the measures businesses must take to meet their data security obligations.

86. These FTC enforcement actions include actions against telecom companies, like Defendant.

87. Section 5 of the FTCA prohibits “unfair . . . practices in or affecting commerce,” including, as interpreted and enforced by the FTC, the unfair act or practice by businesses, such as Defendant, of failing to use reasonable measures to protect PII. The FTC publications and orders described above also form part of the basis of Defendant’s duty in this regard.

88. Defendant failed to properly implement basic data security practices.

³² *Id.*

³³ *Id.*

89. Defendant's failure to employ reasonable and appropriate measures to protect against unauthorized access to the PII of its customers or to comply with applicable industry standards constitutes an unfair act or practice prohibited by Section 5 of the FTCA.

90. Upon information and belief, AT&T was at all times fully aware of its obligation to protect the PII of its customers, AT&T was also aware of the significant repercussions that would result from its failure to do so. Accordingly, Defendant's conduct was particularly unreasonable given the nature and amount of PII it obtained and stored and the foreseeable consequences of the immense damages that would result to Plaintiffs and the Class from the unauthorized disclosure of that PII.

Defendant Fails To Comply With Industry Standards

91. As noted above, experts studying cybersecurity routinely identify telecom companies in possession of PII as being particularly vulnerable to cyberattacks because of the value of the PII which they collect and maintain.

92. Several best practices have been identified that, at a minimum, should be implemented by telecom companies in possession of PII, like Defendant, including but not limited to: educating all employees; requiring strong passwords; implementing multi-layer security, including firewalls, maintaining anti-virus and anti-malware software; utilizing encryption, making data unreadable without a key; requiring multi-factor authentication; maintaining backup data; and limiting which employees can access sensitive data. AT&T failed to follow these industry best practices, including a failure to implement multi-factor authentication.

93. Other best cybersecurity practices that are standard for telecom companies include installing appropriate malware detection software; monitoring and limiting network ports; protecting web browsers and email management systems; setting up network systems such as

firewalls, switches, and routers; monitoring and protecting physical security systems; protecting against any possible communication system; training staff regarding critical points. AT&T failed to follow these cybersecurity best practices, including failing to adequately train staff.

94. Upon information and belief Defendant failed to meet the minimum standards of one or more of the following frameworks: the NIST Cybersecurity Framework Version 1.1 (including without limitation PR.AC-1, PR.AC-3, PR.AC-4, PR.AC-5, PR.AC-6, PR.AC-7, PR.AT-1, PR.DS-1, PR.DS-5, PR.PT-1, PR.PT-3, DE.CM-1, DE.CM-4, DE.CM-7, DE.CM-8, and RS.CO-2), and the Center for Internet Security's Critical Security Controls (CIS CSC), which are all established standards in reasonable cybersecurity readiness.

95. These foregoing frameworks are existing and applicable industry standards for telecom companies, and upon information and belief Defendant failed to comply with at least one—or all—of these accepted standards, thereby opening the door to the threat actor and causing the Data Breach.

Common Injuries & Damages

96. As a result of Defendant's ineffective and inadequate data security practices, the Data Breach, and the foreseeable consequences of PII being obtained by criminals, the risk of identity theft to the Plaintiffs and Class Members has materialized and is imminent, and Plaintiffs and Class Members have all sustained actual injuries and damages, including: (i) invasion of privacy; (ii) theft of their PII; (iii) lost or diminished value of PII; (iv) lost time and opportunity costs associated with attempting to mitigate the actual consequences of the Data Breach; (v) loss of benefit of the bargain; (vi) lost opportunity costs associated with attempting to mitigate the actual consequences of the Data Breach; (vii) statutory damages; (viii) nominal damages; and (ix) the continued and certainly increased risk to their PII, which: (a) remains unencrypted and

available for unauthorized third parties to access and abuse; and (b) remains backed up in Defendant's possession and is subject to further unauthorized disclosures so long as Defendant fails to undertake appropriate and adequate measures to protect the PII.

Data Breaches Increase Victims' Risk of Identity Theft

97. The unencrypted PII of Class Members has ended up for sale on the dark web, as that is the *modus operandi* of hackers.

98. Unencrypted PII may also fall into the hands of companies that will use the detailed PII for targeted marketing without the approval of Plaintiffs and Class Members. Simply put, unauthorized individuals can easily access the PII of Plaintiffs and Class Members.

99. The link between a data breach and the risk of identity theft is simple and well established. Criminals acquire and steal PII to monetize the information. Criminals monetize the data by selling the stolen information on the black market to other criminals, who then utilize the information to commit a variety of identity theft related crimes discussed below.

100. Plaintiffs' and Class Members' PII is of great value to hackers and cybercriminals, and the data stolen in the Data Breach has been used and will continue to be used in a variety of sordid ways for criminals to exploit Plaintiffs and Class Members and to profit off their misfortune.

101. Due to the risk of one's Social Security number being exposed, state legislatures have passed laws in recognition of the risk: "[t]he social security number can be used as a tool to perpetuate fraud against a person and to acquire sensitive personal, financial, medical, and familial information, the release of which could cause great financial or personal harm to an individual. While the social security number was intended to be used solely for the administration of the

federal Social Security System, over time this unique numeric identifier has been used extensively for identity verification purposes[.]”³⁴

102. Moreover, “SSNs have been central to the American identity infrastructure for years, being used as a key identifier[.] . . . U.S. banking processes have also had SSNs baked into their identification process for years. In fact, SSNs have been the gold standard for identifying and verifying the credit history of prospective customers.”³⁵

103. As of 2013, “[d]espite the risk of fraud associated with the theft of Social Security numbers, just five of the nation’s largest 25 banks ha[d] stopped using the numbers to verify a customer’s identity after the initial account setup[.]”³⁶ Accordingly, since Social Security numbers are frequently used to verify an individual’s identity after logging onto an account or attempting a transaction, “[h]aving access to your Social Security number may be enough to help a thief steal money from your bank account.”³⁷

104. One such example of criminals piecing together bits and pieces of compromised PII for profit is the development of “Fullz” packages.³⁸

³⁴ See N.C. Gen. Stat. § 132-1.10(1).

³⁵ See Husayn Kassai, *BankThink: Banks need to stop relying on Social Security Numbers*, American Banker (Nov. 12, 2018), <https://www.americanbanker.com/opinion/banks-need-to-stop-relying-on-social-security-numbers> (last visited Apr. 4, 2024).

³⁶ See Ann Carrns, *Just 5 Banks Prohibit Use of Social Security Numbers*, N.Y. Times (Mar. 20, 2013), <https://archive.nytimes.com/bucks.blogs.nytimes.com/2013/03/20/just-5-banks-prohibit-use-of-social-security-numbers/> (last visited Apr. 4, 2024).

³⁷ Credit.com, *What Can Someone Do With Your Social Security Number* (Oct. 19, 2023), <https://www.credit.com/blog/5-things-an-identity-thief-can-do-with-your-social-security-number-108597/> (last visited Apr. 4, 2024).

³⁸ “Fullz” is fraudster-speak for data that includes the information of the victim, including, but not limited to, name, address, credit card information, Social Security number, date of birth, and more. As a rule of thumb, the more information one has on a victim, the more money that can be made off of those credentials. Fullz are usually pricier than standard credit card credentials, commanding up to \$100 per record (or more) on the dark web. Fullz can be cashed out (turning credentials into money) in various ways, including performing bank transactions over the phone with the required authentication details in-hand. Even “dead Fullz,” which are Fullz credentials associated with credit cards that are no longer valid, can still be used for numerous purposes, including tax refund

105. With “Fullz” packages, cybercriminals can cross-reference two sources of PII to marry unregulated data available elsewhere to criminally stolen data in order to assemble complete dossiers on individuals with an astonishingly complete scope and degree of accuracy.

106. The development of “Fullz” packages means that the stolen PII from the Data Breach can easily be used to link and identify Plaintiffs’ and Class Members’ phone numbers, email addresses, and other unregulated sources and identifiers.

107. The existence and prevalence of “Fullz” packages means that the PII stolen from the Data Breach can easily be linked to the unregulated data (like insurance information) of Plaintiffs and the other Class Members.

108. Thus, even if certain information (such as credit card numbers and insurance information) was not exfiltrated in the Data Breach, criminals can still easily create a comprehensive “Fullz” package.

109. Then, this comprehensive dossier can be sold—and then resold in perpetuity—to unscrupulous operators and other criminals (such as illegal and scam telemarketers).

Loss of Time To Mitigate Risk of Identity Theft and Fraud

110. As a result of the recognized risk of identity theft, when a Data Breach occurs and an individual is notified by a company that their PII was compromised, as in this Data Breach, the reasonable person is expected to take steps and spend time to address the dangerous situation, learn about the breach, and otherwise mitigate the risk of becoming a victim of identity theft or fraud.

scams, ordering credit cards on behalf of the victim, or opening a “mule account” (an account that will accept a fraudulent money transfer from a compromised account) without the victim’s knowledge. *See, e.g.,* Brian Krebs, *Medical Records for Sale in Underground Stolen From Texas Life Insurance Firm*, Krebs on Security (Sep. 18, 2014), <https://krebsonsecurity.com/2014/09/medical-records-for-sale-in-underground-stolen-from-texas-life-insurance-firm/> (last visited Apr. 4, 2024).

Failure to spend time taking steps to review accounts or credit reports could expose the individual to greater financial harm—however, the resource and asset of time has been lost.

111. Plaintiffs and Class Members have spent time, and will spend additional time in the future, on a variety of prudent actions, such as researching and verifying the legitimacy of the Data Breach. Accordingly, the Data Breach has caused Plaintiffs and Class Members to suffer actual injury in the form of lost time—which cannot be recaptured—spent on mitigation activities.

112. Plaintiffs’ mitigation efforts are consistent with the U.S. Government Accountability Office 2007 report regarding data breaches (“GAO Report”), in which it noted that victims of identity theft may face “substantial costs and time to repair the damage to their good name and credit record.”³⁹

113. Plaintiffs’ mitigation efforts are also consistent with the steps that the FTC recommends that data breach victims take to protect their personal and financial information after a data breach, including: contacting one or more of the credit bureaus to place a fraud alert, reviewing their credit reports, contacting companies to remove fraudulent charges from their accounts, placing a freeze on their credit, and correcting their credit reports.⁴⁰

Diminution of Value of PII

114. PII is a valuable property right.⁴¹ Its value is axiomatic, considering the value of Big Data in corporate America and the fact that cyber thefts result in heavy prison sentences. Even these obvious risk-to-reward factors illustrate beyond doubt that PII has considerable market value.

³⁹ U.S. Gov’t Accountability Off., *supra* note 30 at 2.

⁴⁰ See Federal Trade Commission, *IdentityTheft.gov*, <https://www.identitytheft.gov/Steps> (last visited Apr. 4, 2024).

⁴¹ See, e.g., John T. Soma, et al., Corporate Privacy Trend: The “Value” of Personally Identifiable Information (“PII”) Equals the “Value” of Financial Assets, 15 Rich. J.L. & Tech. 11, at 2 (2009) (“PII, which companies obtain at little cost, has quantifiable value that is rapidly reaching a level comparable to the value of traditional financial assets.”) (citations omitted).

115. Sensitive PII can sell for as much as \$363 per record according to the Ponemon Institute.⁴²

116. An active and robust legitimate marketplace for PII also exists. In 2019, the data brokering industry was believed to be worth roughly \$200 billion.⁴³

117. In fact, the data marketplace is so sophisticated that consumers can actually sell their non-public information directly to a data broker who in turn aggregates the information and provides it to marketers or app developers.⁴⁴

118. As a result of the Data Breach, Plaintiffs' and Class Members' PII, which has an inherent market value in both legitimate and dark markets, has been damaged and diminished by its compromise and unauthorized release. However, this transfer of value occurred without any consideration paid to Plaintiffs or Class Members for their property, resulting in an economic loss. Moreover, the PII is now readily available, and the rarity of the Data has been lost, thereby causing additional loss of value.

119. At all relevant times, AT&T knew, or reasonably should have known, of the importance of safeguarding the PII of Plaintiffs and Class Members, and of the foreseeable consequences that would occur if Defendant's data security system was breached, including the significant costs that would be imposed on Plaintiffs and Class Members as a result of a breach.

120. The fraudulent activity resulting from the Data Breach may not come to light for years.

⁴² Ponemon Institute, LLC, *2015 Cost of Data Breach Study: Global Analysis*, at 2 (May 2015), <https://www.ponemon.org/local/upload/file/2015%20Global%20CODB%20FINAL%203%20copy.pdf> (last visited Apr. 4, 2024).

⁴³ David Lazarus, *Column: Shadowy data brokers make the most of their invisibility cloak*, L.A. Times (Nov. 5, 2019), <https://www.latimes.com/business/story/2019-11-05/column-data-brokers> (last visited Apr. 4, 2024).

⁴⁴ See Datacoup, Inc., *The personal data revolution*, <https://datacoup.com/> (last visited Apr. 4, 2024).

121. Plaintiffs and Class Members now face years of constant surveillance of their financial and personal records, monitoring, and loss of rights. The Class is incurring and will continue to incur such damages in addition to any fraudulent use of their PII.

122. AT&T was, or should have been, fully aware of the unique type and the significant volume of data on Defendant's network—amounting to more than seventy million individuals' detailed personal information—and thus the significant number of individuals who would be harmed by the exposure of the unencrypted data.

123. The injuries to Plaintiffs and Class Members were directly and proximately caused by Defendant's failure to implement or maintain adequate data security measures for the PII of Plaintiffs and Class Members.

The Future Cost of Credit and Identity Theft Monitoring is Reasonable and Necessary

124. Given the type of targeted attack in this case, the nature of the sophisticated criminal activity, and the type of PII involved, entire batches of stolen information appear to have been placed on the black market/dark web for sale and purchase by criminals intending to utilize the PII for identity theft crimes, such as opening bank accounts in the victims' names to make purchases or to launder money; filing false tax returns; taking out loans or lines of credit; or filing false unemployment claims.

125. Such fraud may go undetected until debt collection calls commence months or even years later. An individual may not know that his or her PII was used to file for unemployment benefits until law enforcement notifies the individual's employer of the suspected fraud. Fraudulent tax returns are typically discovered only when an individual's authentic tax return is rejected.

126. Consequently, Plaintiffs and Class Members are at an increased risk of fraud and identity theft for many years into the future.

127. The retail cost of credit monitoring and identity theft monitoring can cost around \$200 a year per Class Member. This is a reasonable and necessary cost to monitor and protect Class Members from the risk of identity theft that arose from Defendant's Data Breach.

Loss of Benefit of the Bargain

128. Furthermore, Defendant's poor data security practices deprived Plaintiffs and Class Members of the benefit of their bargain. When agreeing to pay Defendant and/or its agents for products and/or services, Plaintiffs and other reasonable consumers understood and expected that they were, in part, paying for the product and/or service as well as necessary data security to protect the PII, when in fact Defendant did not provide the expected data security. Accordingly, Plaintiffs and Class Members received products and/or services that were of a lesser value than what they reasonably expected to receive under the bargains they struck with Defendant.

Plaintiff Nella Citino's Experience

129. Plaintiff Nella Citino is a current AT&T wireless customer and has been a customer for approximately 30 years.

130. As a condition of obtaining products and/or services at AT&T, she was required to provide her PII to Defendant, including her name, date of birth, phone number, Social Security number, and other sensitive information.

131. Upon information and belief, at the time of the Data Breach, Defendant maintained Plaintiff Citino's PII in its system.

132. Plaintiff Citino is very careful about sharing her sensitive PII. Plaintiff stores any documents containing her PII in a safe and secure location. She has never knowingly transmitted

unencrypted sensitive PII over the internet or any other unsecured source. Plaintiff would not have entrusted her PII to Defendant had she known of Defendant's lax data security policies.

133. Upon information and belief, Plaintiff Citino's PII was improperly accessed and obtained by unauthorized third parties, including her name, phone number, email address, and Social Security number. In particular, Ms. Citino was informed on or about March 20th through her Google One account, which does dark web monitoring, that her PII (including her name, Social Security number, email address, phone number, as well as possibly her address) were available on the dark web.

134. Plaintiff Citino was also informed by email received from Defendant, dated March 30, 2024,⁴⁵ that AT&T had "discovered that your AT&T account passcode has been compromised, therefore we have proactively reset your passcode." Plaintiff Citino was also informed that her PII involved "may have included full name, email address, mailing address, phone number, social security number, date of birth, AT&T account number and passcode."⁴⁶

135. As a result of the Data Breach, Plaintiff Citino made reasonable efforts to mitigate the impact of the Data Breach, including researching and verifying the legitimacy of the Data Breach, freezing her credit, securing her email account, and contacting her financial institutions to notify them about the Data Breach. Plaintiff Citino has spent significant time dealing with the Data Breach—valuable time Plaintiff Citino otherwise would have spent on other activities, including but not limited to work and/or recreation. This time has been lost forever and cannot be recaptured.

136. Plaintiff Citino suffered actual injury from having her PII compromised as a result of the Data Breach, including but not limited to: (i) invasion of privacy; (ii) theft of her PII; (iii) lost or diminished value of PII; (iv) lost time and opportunity costs associated with attempting to

⁴⁵ March 30, 2024 Email from Defendant to Plaintiff Citino, attached as Exhibit A hereto.

⁴⁶ *Id.*

mitigate the actual consequences of the Data Breach; (v) loss of benefit of the bargain; (vi) lost opportunity costs associated with attempting to mitigate the actual consequences of the Data Breach; (vii) statutory damages; (viii) nominal damages; and (ix) the continued and certainly increased risk to her PII, which: (a) remains unencrypted and available for unauthorized third parties to access and abuse; and (b) remains backed up in Defendant's possession and is subject to further unauthorized disclosures so long as Defendant fails to undertake appropriate and adequate measures to protect the PII.

137. The Data Breach has caused Plaintiff Citino to suffer fear, anxiety, and stress, which has been compounded by the fact that Defendant has still not fully informed her of key details about the Data Breach's occurrence.

138. As a result of the Data Breach, Plaintiff Citino anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach.

139. As a result of the Data Breach, Plaintiff Citino is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

140. Plaintiff Citino has a continuing interest in ensuring that her PII that, upon information and belief, remains backed up in Defendant's possession, is protected and safeguarded from future breaches.

Plaintiff Daniel Mizell's Experience

141. Plaintiff Daniel Mizell is a current AT&T internet and U-verse customer.

142. As a condition of obtaining products and/or services at AT&T, he was required to provide his PII to Defendant, including his name, date of birth, phone number, Social Security number, and other sensitive information.

143. Upon information and belief, at the time of the Data Breach, Defendant maintained Plaintiff's PII in its system.

144. Plaintiff Mizell is very careful about sharing his sensitive PII. Plaintiff Mizell stores any documents containing his PII in a safe and secure location. He has never knowingly transmitted unencrypted sensitive PII over the internet or any other unsecured source. Plaintiff Mizell would not have entrusted his PII to Defendant had he known of Defendant's lax data security policies.

145. Upon information and belief, Plaintiff Mizell's PII was improperly accessed and obtained by unauthorized third parties, including his name, phone number, email address, and Social Security number. In particular, Mr. Mizell was informed by email received from Defendant, dated March 30, 2024,⁴⁷ that AT&T had "discovered that your AT&T account passcode has been compromised, therefore we have proactively reset your passcode." Plaintiff Mizell was also informed that his PII involved "may have included full name, email address, mailing address, phone number, social security number, date of birth, AT&T account number and passcode."⁴⁸

146. Despite AT&T's statement, as of the filing of this complaint, Plaintiff Mizell's compromised AT&T account password still has not been reset by AT&T.

147. As a result of the Data Breach, Plaintiff Mizell made reasonable efforts to mitigate the impact of the Data Breach, including researching and verifying the legitimacy of the Data Breach. Plaintiff Mizell has spent significant time dealing with the Data Breach—valuable time Plaintiff Mizell otherwise would have spent on other activities, including but not limited to work and/or recreation. This time has been lost forever and cannot be recaptured.

148. Plaintiff Mizell suffered actual injury from having his PII compromised as a result of the Data Breach, including but not limited to: (i) invasion of privacy; (ii) theft of his PII; (iii)

⁴⁷ March 30, 2024 Email from Defendant to Plaintiff Mizell, attached as Exhibit B hereto.

⁴⁸ *Id.*

lost or diminished value of PII; (iv) lost time and opportunity costs associated with attempting to mitigate the actual consequences of the Data Breach; (v) loss of benefit of the bargain; (vi) lost opportunity costs associated with attempting to mitigate the actual consequences of the Data Breach; (vii) statutory damages; (viii) nominal damages; and (ix) the continued and certainly increased risk to his PII, which: (a) remains unencrypted and available for unauthorized third parties to access and abuse; and (b) remains backed up in Defendant's possession and is subject to further unauthorized disclosures so long as Defendant fails to undertake appropriate and adequate measures to protect the PII.

149. The Data Breach has caused Plaintiff Mizell to suffer fear, anxiety, and stress, which has been compounded by the fact that Defendant has still not fully informed him of key details about the Data Breach's occurrence.

150. As a result of the Data Breach, Plaintiff Mizell anticipates spending considerable time and money on an ongoing basis to try to mitigate and address harms caused by the Data Breach.

151. As a result of the Data Breach, Plaintiff Mizell is at a present risk and will continue to be at increased risk of identity theft and fraud for years to come.

152. Plaintiff Mizell has a continuing interest in ensuring that his PII that, upon information and belief, remains backed up in Defendant's possession, is protected and safeguarded from future breaches.

CLASS ALLEGATIONS

153. Plaintiffs bring this nationwide class action on behalf of themselves and all others similarly situated pursuant to Rule 23(b)(2), 23(b)(3), and 23(c)(4) of the Federal Rules of Civil Procedure.

154. The Class that Plaintiffs seek to represent is defined as follows:

Nationwide Class

All individuals residing in the United States whose PII was accessed and/or acquired by an unauthorized party as a result of the data breach at Defendant in or about March 2024 (the “Class”).

155. Excluded from the Class are the following individuals and/or entities: Defendant and Defendant’s parents, subsidiaries, affiliates, officers and directors, and any entity in which Defendant have a controlling interest; all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; and all judges assigned to hear any aspect of this litigation, as well as their immediate family members.

156. Plaintiffs reserve the right to amend the definitions of the Class or add a Class or Subclass if further information and discovery indicate that the definitions of the Class should be narrowed, expanded, or otherwise modified.

157. Numerosity: The members of the Class are so numerous that joinder of all members is impracticable, if not completely impossible. Upon information and belief, more than 70 million individuals were impacted in the Data Breach. The Class is apparently identifiable within Defendant’s records, and Defendant has already identified these individuals (as evidenced by sending them breach notification letters).

158. Common questions of law and fact exist as to all members of the Class and predominate over any questions affecting solely individual members of the Class. Among the questions of law and fact common to the Class that predominate over questions which may affect individual Class members, including the following:

- a. Whether and to what extent Defendant had a duty to protect the PII of Plaintiffs and Class Members;

- b. Whether Defendant had respective duties not to disclose the PII of Plaintiffs and Class Members to unauthorized third parties;
- c. Whether Defendant had respective duties not to use the PII of Plaintiffs and Class Members for non-business purposes;
- d. Whether Defendant failed to adequately safeguard the PII of Plaintiffs and Class Members;
- e. Whether and when Defendant actually learned of the Data Breach;
- f. Whether Defendant adequately, promptly, and accurately informed Plaintiffs and Class Members that their PII had been compromised;
- g. Whether Defendant violated the law by failing to promptly and adequately notify Plaintiffs and Class Members that their PII had been compromised;
- h. Whether Defendant failed to implement and maintain reasonable security procedures and practices appropriate to the nature and scope of the information compromised in the Data Breach;
- i. Whether Defendant adequately addressed and fixed the vulnerabilities which permitted the Data Breach to occur;
- j. Whether Plaintiffs and Class Members are entitled to actual damages, statutory damages, and/or nominal damages as a result of Defendant's wrongful conduct;
- k. Whether Plaintiffs and Class Members are entitled to injunctive relief to redress the imminent and currently ongoing harm faced as a result of the Data Breach.

159. Typicality: Plaintiffs' claims are typical of those of the other members of the Class because Plaintiffs, like every other Class Member, were exposed to virtually identical conduct and now suffer from the same violations of the law as each other member of the Class.

160. Policies Generally Applicable to the Class: This class action is also appropriate for certification because Defendant acted or refused to act on grounds generally applicable to the Class, thereby requiring the Court's imposition of uniform relief to ensure compatible standards of conduct toward the Class Members and final injunctive relief appropriate with respect to the Class as a whole. Defendant's policies challenged herein apply to and affect Class Members uniformly, and Plaintiffs' challenges of these policies hinge on Defendant's conduct with respect to the Class as a whole, not on facts or law applicable only to Plaintiffs.

161. Adequacy: Plaintiffs will fairly and adequately represent and protect the interests of the Class Members, in that they have no disabling conflicts of interest that would be antagonistic to those of other Class Members. Plaintiffs seek no relief that is antagonistic or adverse to other Class Members, and the infringement of the rights and the damages they have suffered are typical of other Class Members. Plaintiffs have retained counsel experienced in complex class action and data breach litigation, and Plaintiffs intend to prosecute this action vigorously.

162. Superiority and Manageability: The class litigation is an appropriate method for fair and efficient adjudication of the claims involved. Class action treatment is superior to all other available methods for the fair and efficient adjudication of the controversy alleged herein; it will permit a large number of Class Members to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of evidence, effort, and expense that hundreds of individual actions would require. Class action treatment will permit the adjudication of relatively modest claims by certain Class Members, who could not individually afford to litigate a complex claim against large corporations, like Defendant. Further, even for those Class Members who could afford to litigate such a claim, so doing would still be economically impractical and impose a burden on the courts.

163. The nature of this action and the nature of laws available to Plaintiffs and Class Members make the use of the class action device a particularly efficient and appropriate procedure to afford relief to Plaintiffs and Class Members for the wrongs alleged because Defendant would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual Class Member with superior financial and legal resources; the costs of individual suits could unreasonably exceed the amounts that would be recovered; proof of a common course of conduct to which Plaintiffs were exposed is representative of that experienced by the Class and will establish the right of each Class Member to recover on the causes of action alleged; and individual actions would create a risk of inconsistent results and would be unnecessary and duplicative of this litigation.

164. The litigation of the claims brought herein is manageable. Defendant's uniform conduct, the consistent provisions of the relevant laws, and the ascertainable identities of Class Members demonstrates that there would be no significant manageability problems with prosecuting this lawsuit as a class action.

165. Adequate notice can be given to Class Members directly using information maintained in Defendant's records.

166. Unless a Class-wide injunction is issued, Defendant may continue in its failure to properly secure the PII of Class Members, Defendant may continue to refuse to provide proper notification to Class Members regarding the Data Breach, and Defendant may continue to act unlawfully as set forth in this Petition.

167. Further, Defendant has acted on grounds that apply generally to the Class as a whole, so that class certification, injunctive relief, and corresponding declaratory relief are appropriate on a class-wide basis.

168. Likewise, particular issues under Rule 42(d)(1) are appropriate for certification because such claims present only particular, common issues, the resolution of which would advance the disposition of this matter and the parties' interests therein. Such particular issues include, but are not limited to:

- a. Whether Defendant failed to timely and adequately notify the Plaintiffs and the Class of the Data Breach;
- b. Whether Defendant owed a legal duty to Plaintiffs and the Class to exercise due care in collecting, storing, and safeguarding their PII;
- c. Whether Defendant's security measures to protect their data systems were reasonable in light of best practices recommended by data security experts;
- d. Whether Defendant's failure to institute adequate protective security measures amounted to negligence;
- e. Whether Defendant failed to take commercially reasonable steps to safeguard consumer PII; and
- f. Whether adherence to FTC data security recommendations, and measures recommended by data security experts would have reasonably prevented the Data Breach.

CAUSES OF ACTION

COUNT I

Negligence

(On Behalf of Plaintiffs and the Class)

169. Plaintiffs re-allege and incorporate by reference all preceding allegations, as if fully set forth herein.

170. Defendant requires its customers, including Plaintiffs and Class Members, to submit non-public PII in the ordinary course of providing its products and/or services.

171. Defendant gathered and stored the PII of Plaintiffs and Class Members as part of its business of soliciting its services to its customers, which solicitations and services affect commerce.

172. Plaintiffs and Class Members entrusted Defendant with their PII, with the understanding that Defendant would safeguard their information.

173. Defendant had full knowledge of the sensitivity of the PII and the types of harm that Plaintiffs and Class Members could and would suffer if the PII were wrongfully disclosed.

174. By voluntarily undertaking and assuming the responsibility to collect and store this data, and in fact doing so, as well as sharing it and using it for commercial gain, Defendant had a duty of care to use reasonable means to secure and safeguard their computer property—and Class Members' PII held within it—to prevent disclosure of the information and to safeguard the information from theft. Defendant's duty included a responsibility to implement processes by which they could detect a breach of its security systems in a reasonably expeditious period of time and to give prompt notice to those affected in the case of a data breach.

175. Defendant had a duty to employ reasonable security measures under Section 5 of the FTCA, which prohibits “unfair . . . practices in or affecting commerce,” including, as interpreted and enforced by the FTC, the unfair practice of failing to use reasonable measures to protect confidential data.

176. Defendant owed a duty of care to Plaintiffs and Class Members to provide data security consistent with industry standards and other requirements discussed herein, and to ensure that its systems and networks adequately protected the PII.

177. Defendant's duty of care to use reasonable security measures arose as a result of the special relationship that existed between AT&T and Plaintiffs and Class Members. That special relationship arose because Plaintiffs and the Class entrusted AT&T with their confidential PII, a necessary part of being customers of Defendant.

178. Defendant's duty to use reasonable care in protecting confidential data arose not only as a result of the statutes and regulations described above, but also because Defendant is bound by industry standards to protect confidential PII.

179. Defendant was subject to an "independent duty," untethered to any contract between Defendant and Plaintiffs or the Class.

180. Defendant also had a duty to exercise appropriate clearinghouse practices to remove former customers' PII it was no longer required to retain pursuant to regulations.

181. Moreover, Defendant had a duty to promptly and adequately notify Plaintiffs and the Class of the Data Breach.

182. Defendant had and continues to have a duty to adequately disclose that the PII of Plaintiffs and the Class within Defendant's possession might have been compromised, how it was compromised, and precisely the types of data that were compromised and when. Such notice was and is necessary to allow Plaintiffs and the Class to take steps to prevent, mitigate, and repair any identity theft and the fraudulent use of their PII by third parties.

183. Defendant breached its duties pursuant to the FTC Act and other applicable standards, and thus was negligent, by failing to use reasonable measures to protect Class Members' PII. The specific negligent acts and omissions committed by Defendant include, but are not limited to, the following:

- a. Failing to adopt, implement, and maintain adequate security measures to safeguard Class Members' PII;
- b. Failing to adequately monitor the security of their networks and systems;
- c. Allowing unauthorized access to Class Members' PII;
- d. Failing to detect in a timely manner that Class Members' PII had been compromised;
- e. Failing to remove former customers' PII it was no longer required to retain pursuant to regulations, and
- f. Failing to timely and adequately notify Class Members about the Data Breach's occurrence and scope, so that they could take appropriate steps to mitigate the potential for identity theft and other damages.

184. Defendant violated Section 5 of the FTC Act by failing to use reasonable measures to protect PII and not complying with applicable industry standards, as described in detail herein. Defendant's conduct was particularly unreasonable given the nature and amount of PII it obtained and stored as well as the foreseeable consequences of the immense damages that would result to Plaintiffs and the Class.

185. Plaintiffs and Class Members were within the class of persons the Federal Trade Commission Act was intended to protect, and the type of harm that resulted from the Data Breach was the type of harm that the statute was intended to guard against.

186. Defendant's violation of Section 5 of the FTC Act constitutes negligence.

187. The FTC has pursued enforcement actions against businesses, which, as a result of their failure to employ reasonable data security measures and avoid unfair and deceptive practices, caused the same harm as that suffered by Plaintiffs and the Class.

188. A breach of security, unauthorized access, and resulting injury to Plaintiffs and the Class was reasonably foreseeable, particularly in light of Defendant's inadequate security practices.

189. It was foreseeable that Defendant's failure to use reasonable measures to protect Class Members' PII would result in injury to Class Members. Further, the breach of security was reasonably foreseeable given the known high frequency of cyberattacks and data breaches in the telecom industry.

190. Defendant has full knowledge of the sensitivity of the PII and the types of harm that Plaintiffs and the Class could and would suffer if the PII were wrongfully disclosed.

191. Plaintiffs and the Class were the foreseeable and probable victims of any inadequate security practices and procedures. Defendant knew or should have known of the inherent risks in collecting and storing the PII of Plaintiffs and the Class, the critical importance of providing adequate security of that PII, and the necessity for encrypting PII stored on Defendant's systems or transmitted through third party systems.

192. It was therefore foreseeable that the failure to adequately safeguard Class Members' PII would result in one or more types of injuries to Class Members.

193. Plaintiffs and the Class had no ability to protect their PII that was in, and possibly remains in, Defendant's possession.

194. Defendant was in a position to protect against the harm suffered by Plaintiffs and the Class as a result of the Data Breach.

195. Defendant's duty extended to protecting Plaintiffs and the Class from the risk of foreseeable criminal conduct of third parties, which has been recognized in situations where the actor's own conduct or misconduct exposes another to the risk of or defeats protections put in

place to guard against the risk, or where the parties are in a special relationship. *See* Restatement (Second) of Torts § 302B. Numerous courts and legislatures have also recognized the existence of a specific duty to reasonably safeguard personal information.

196. But for Defendant's wrongful and negligent breach of duties owed to Plaintiffs and the Class, the PII of Plaintiffs and the Class would not have been compromised.

197. There is a close causal connection between Defendant's failure to implement security measures to protect the PII of Plaintiffs and the Class and the harm, or risk of imminent harm, suffered by Plaintiffs and the Class. The PII of Plaintiffs and the Class was lost and accessed as the proximate result of Defendant's failure to exercise reasonable care in safeguarding such PII by adopting, implementing, and maintaining appropriate security measures.

198. As a direct and proximate result of Defendant's negligence, Plaintiffs and the Class have suffered and will suffer injury, including but not limited to: (i) invasion of privacy; (ii) theft of their PII; (iii) lost or diminished value of PII; (iv) lost time and opportunity costs associated with attempting to mitigate the actual consequences of the Data Breach; (v) loss of benefit of the bargain; (vi) lost opportunity costs associated with attempting to mitigate the actual consequences of the Data Breach; (vii) statutory damages; (viii) nominal damages; and (ix) the continued and certainly increased risk to their PII, which: (a) remains unencrypted and available for unauthorized third parties to access and abuse; and (b) remains backed up in Defendant's possession and is subject to further unauthorized disclosures so long as Defendant fails to undertake appropriate and adequate measures to protect the PII.

199. Additionally, as a direct and proximate result of Defendant's negligence, Plaintiffs and the Class have suffered and will suffer the continued risks of exposure of their PII, which remain in Defendant's possession and is subject to further unauthorized disclosures so long as

Defendant fails to undertake appropriate and adequate measures to protect the PII in its continued possession.

200. Plaintiffs and Class Members are entitled to compensatory and consequential damages suffered as a result of the Data Breach.

201. Plaintiffs and Class Members are also entitled to injunctive relief requiring Defendant to (i) strengthen its data security systems and monitoring procedures; (ii) submit to future annual audits of those systems and monitoring procedures; and (iii) continue to provide adequate credit monitoring to all Class Members.

COUNT II
Negligence *Per Se*
(On Behalf of Plaintiffs and the Class)

202. Plaintiffs re-allege and incorporate by reference all preceding allegations, as if fully set forth herein.

203. Pursuant to the FTCA, Defendant had a duty to provide fair and adequate computer systems and data security practices to safeguard Plaintiffs' and Class Members' PII.

204. Defendant breached its duties to Plaintiffs and Class Members under the Federal Trade Commission Act by failing to provide fair, reasonable, or adequate computer systems and data security practices to safeguard Plaintiffs' and Class Members' PII.

205. Defendant's failure to comply with applicable laws and regulations constitutes negligence *per se*.

206. But for Defendant's wrongful and negligent breach of their duties owed to Plaintiffs and Class Members, Plaintiffs and Class Members would not have been injured.

207. The harm resulting from the Data Breach was the harm the FTC Act was intended to guard against and Plaintiffs and Class Members are within the class of persons the statute was intended to protect.

208. The injury and harm suffered by Plaintiffs and Class Members was the reasonably foreseeable result of Defendant's breach of their duties. Defendant knew or should have known that it was failing to meet its duties, and that Defendant's breach would cause Plaintiffs and Class Members to experience the foreseeable harms associated with the exposure of their PII.

209. As a direct and proximate result of Defendant's negligent conduct, Plaintiffs and Class Members have suffered injury and are entitled to compensatory, consequential, and punitive damages in an amount to be proven at trial.

COUNT III
Breach Of Implied Contract
(On Behalf of Plaintiffs and the Class)

210. Plaintiffs re-allege and incorporate by reference all preceding allegations, as if fully set forth herein.

211. Plaintiffs and Class Members were required deliver their PII to Defendant as part of the process of obtaining products and/or services from Defendant. Plaintiffs and Class Members paid money, or money was paid on their behalf, to Defendant in exchange for products and/or services.

212. Defendant solicited, offered, and invited Class Members to provide their PII as part of Defendant's regular business practices. Plaintiffs and Class Members accepted Defendant's offers and provided their PII to Defendant.

213. Defendant accepted possession of Plaintiffs' and Class Members' PII for the purpose of providing services to Plaintiffs and Class Members.

214. Plaintiffs and the Class entrusted their PII to Defendant. In so doing, Plaintiffs and the Class entered into implied contracts with Defendant by which Defendant agreed to safeguard and protect such information, to keep such information secure and confidential, and to timely and accurately notify Plaintiffs and the Class if their data had been breached and compromised or stolen.

215. In entering into such implied contracts, Plaintiffs and Class Members reasonably believed and expected that Defendant's data security practices complied with relevant laws and regulations (including FTC guidelines on data security) and were consistent with industry standards.

216. Implicit in the agreement between Plaintiffs and Class Members and the Defendant to provide PII, was the latter's obligation to: (a) use such PII for business purposes only, (b) take reasonable steps to safeguard that PII, (c) prevent unauthorized disclosures of the PII, (d) provide Plaintiffs and Class Members with prompt and sufficient notice of any and all unauthorized access and/or theft of their PII, (e) reasonably safeguard and protect the PII of Plaintiffs and Class Members from unauthorized disclosure or uses, (f) retain the PII only under conditions that kept such information secure and confidential.

217. The mutual understanding and intent of Plaintiffs and Class Members on the one hand, and Defendant, on the other, is demonstrated by their conduct and course of dealing.

218. On information and belief, at all relevant times Defendant promulgated, adopted, and implemented written privacy policies whereby it expressly promised Plaintiffs and Class Members that it would only disclose PII under certain circumstances, none of which relate to the Data Breach.

219. On information and belief, Defendant further promised to comply with industry standards and to make sure that Plaintiffs' and Class Members' PII would remain protected.

220. Plaintiffs and Class Members paid money to Defendant with the reasonable belief and expectation that Defendant would use part of its earnings to obtain adequate data security. Defendant failed to do so.

221. Plaintiffs and Class Members would not have entrusted their PII to Defendant in the absence of the implied contract between them and Defendant to keep their information reasonably secure.

222. Plaintiffs and Class Members would not have entrusted their PII to Defendant in the absence of their implied promise to monitor their computer systems and networks to ensure that it adopted reasonable data security measures.

223. Every contract in this State has an implied covenant of good faith and fair dealing, which is an independent duty and may be breached even when there is no breach of a contract's actual and/or express terms.

224. Plaintiffs and Class Members fully and adequately performed their obligations under the implied contracts with Defendant.

225. Defendant breached the implied contracts it made with Plaintiffs and the Class by failing to safeguard and protect their personal information, by failing to delete the information of Plaintiffs and the Class once the relationship ended, and by failing to provide timely and accurate notice to them that personal information was compromised as a result of the Data Breach.

226. Defendant breached the implied covenant of good faith and fair dealing by failing to maintain adequate computer systems and data security practices to safeguard PII, failing to timely and accurately disclose the Data Breach to Plaintiffs and Class Members, and continuing to

accept PII and storage of other personal information after Defendant knew, or should have known, of the security vulnerabilities of the systems that were exploited in the Data Breach.

227. As a direct and proximate result of Defendant's breach of the implied contracts, Plaintiffs and Class Members sustained damages, including, but not limited to: (i) invasion of privacy; (ii) theft of their PII; (iii) lost or diminished value of PII; (iv) lost time and opportunity costs associated with attempting to mitigate the actual consequences of the Data Breach; (v) loss of benefit of the bargain; (vi) lost opportunity costs associated with attempting to mitigate the actual consequences of the Data Breach; (vii) statutory damages; (viii) nominal damages; and (ix) the continued and certainly increased risk to their PII, which: (a) remains unencrypted and available for unauthorized third parties to access and abuse; and (b) remains backed up in Defendant's possession and is subject to further unauthorized disclosures so long as Defendant fails to undertake appropriate and adequate measures to protect the PII.

228. Plaintiffs and Class Members are entitled to compensatory, consequential, and nominal damages suffered as a result of the Data Breach.

229. Plaintiffs and Class Members are also entitled to injunctive relief requiring Defendant to, *e.g.*, (i) strengthen its data security systems and monitoring procedures; (ii) submit to future annual audits of those systems and monitoring procedures; and (iii) immediately provide adequate credit monitoring to all Class Members.

COUNT IV
Unjust Enrichment
(On Behalf of Plaintiffs and the Class)

230. Plaintiffs re-allege and incorporate by reference all preceding allegations, as if fully set forth herein.

231. Plaintiffs bring this Count in the alternative to the breach of implied contract count above.

232. Plaintiffs and Class Members conferred a monetary benefit on Defendant. Specifically, they paid Defendant and/or its agents for products and/or services and in so doing also provided Defendant with their PII. In exchange, Plaintiffs and Class Members should have received from Defendant the products and/or services that were the subject of the transaction and should have had their PII protected with adequate data security.

233. Defendant knew that Plaintiffs and Class Members conferred a benefit upon it and has accepted and retained that benefit by accepting and retaining the PII entrusted to it. Defendant profited from Plaintiffs' retained data and used Plaintiffs' and Class Members' PII for business purposes.

234. Defendant failed to secure Plaintiffs' and Class Members' PII and, therefore, did not fully compensate Plaintiffs or Class Members for the value that their PII provided.

235. Defendant acquired the PII through inequitable record retention, as it failed to investigate and/or disclose the inadequate data security practices previously alleged.

236. If Plaintiffs and Class Members had known that Defendant would not use adequate data security practices, procedures, and protocols to adequately monitor, supervise, and secure their PII, they would not have entrusted their PII to Defendant or obtained products and/or services from Defendant.

237. Plaintiffs and Class Members have no adequate remedy at law.

238. Under the circumstances, it would be unjust for Defendant to be permitted to retain any of the benefits that Plaintiffs and Class Members conferred upon it.

239. As a direct and proximate result of Defendant's conduct, Plaintiffs and Class Members have suffered and will suffer injury, including but not limited to: (i) invasion of privacy; (ii) theft of their PII; (iii) lost or diminished value of PII; (iv) lost time and opportunity costs associated with attempting to mitigate the actual consequences of the Data Breach; (v) loss of benefit of the bargain; (vi) lost opportunity costs associated with attempting to mitigate the actual consequences of the Data Breach; (vii) statutory damages; (viii) nominal damages; and (ix) the continued and certainly increased risk to their PII, which: (a) remains unencrypted and available for unauthorized third parties to access and abuse; and (b) remains backed up in Defendant's possession and is subject to further unauthorized disclosures so long as Defendant fails to undertake appropriate and adequate measures to protect the PII.

240. Plaintiffs and Class Members are entitled to full refunds, restitution, and/or damages from Defendant and/or an order proportionally disgorging all profits, benefits, and other compensation obtained by Defendant from its wrongful conduct. This can be accomplished by establishing a constructive trust from which the Plaintiffs and Class Members may seek restitution or compensation.

241. Plaintiffs and Class Members may not have an adequate remedy at law against Defendant, and accordingly, they plead this claim for unjust enrichment in addition to, or in the alternative to, other claims pleaded herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and Class Members, request judgment against Defendant and that the Court grants the following:

- A. For an Order certifying the Class, and appointing Plaintiffs and their Counsel to represent the Class;

- B. For equitable relief enjoining Defendant from engaging in the wrongful conduct complained of herein pertaining to the misuse and/or disclosure of the PII of Plaintiffs and Class Members;
- C. For injunctive relief requested by Plaintiffs, including but not limited to, injunctive and other equitable relief as is necessary to protect the interests of Plaintiffs and Class Members, including but not limited to an order:
 - i. prohibiting Defendant from engaging in the wrongful and unlawful acts described herein;
 - ii. requiring Defendant to protect, including through encryption, all data collected through the course of its business in accordance with all applicable regulations, industry standards, and federal, state or local laws;
 - iii. requiring Defendant to delete, destroy, and purge the personal identifying information of Plaintiffs and Class Members unless Defendant can provide to the Court reasonable justification for the retention and use of such information when weighed against the privacy interests of Plaintiffs and Class Members;
 - iv. requiring Defendant to provide out-of-pocket expenses associated with the prevention, detection, and recovery from identity theft, tax fraud, and/or unauthorized use of their PII for Plaintiffs' and Class Members' respective lifetimes;
 - v. requiring Defendant to implement and maintain a comprehensive Information Security Program designed to protect the confidentiality and integrity of the PII of Plaintiffs and Class Members;
 - vi. prohibiting Defendant from maintaining the PII of Plaintiffs and Class

Members on a cloud-based database;

- vii. requiring Defendant to engage independent third-party security auditors/penetration testers as well as internal security personnel to conduct testing, including simulated attacks, penetration tests, and audits on Defendant's systems on a periodic basis, and ordering Defendant to promptly correct any problems or issues detected by such third-party security auditors;
- viii. requiring Defendant to engage independent third-party security auditors and internal personnel to run automated security monitoring;
- ix. requiring Defendant to audit, test, and train its security personnel regarding any new or modified procedures;
- x. requiring Defendant to segment data by, among other things, creating firewalls and controls, so that if one area of Defendant's network is compromised, hackers cannot gain access to other portions of Defendant's systems;
- xi. requiring Defendant to conduct regular database scanning and securing checks;
- xii. requiring Defendant to establish an information security training program that includes at least annual information security training for all employees, with additional training to be provided as appropriate based upon the employees' respective responsibilities with handling personal identifying information, as well as protecting the personal identifying information of Plaintiffs and Class Members;
- xiii. requiring Defendant to routinely and continually conduct internal training and

education, and on an annual basis to inform internal security personnel how to identify and contain a breach when it occurs and what to do in response to a breach;

- xiv. requiring Defendant to implement a system of tests to assess its respective employees' knowledge of the education programs discussed in the preceding subparagraphs, as well as randomly and periodically testing employees' compliance with Defendant's policies, programs, and systems for protecting personal identifying information;
- xv. requiring Defendant to implement, maintain, regularly review, and revise as necessary a threat management program designed to appropriately monitor Defendant's information networks for threats, both internal and external, and assess whether monitoring tools are appropriately configured, tested, and updated;
- xvi. requiring Defendant to meaningfully educate all Class Members about the threats that they face as a result of the loss of their confidential personal identifying information to third parties, as well as the steps affected individuals must take to protect herself;
- xvii. requiring Defendant to implement logging and monitoring programs sufficient to track traffic to and from Defendant's servers; and
- xviii. for a period of 10 years, appointing a qualified and independent third party assessor to conduct a SOC 2 Type 2 attestation on an annual basis to evaluate Defendant's compliance with the terms of the Court's final judgment, to provide such report to the Court and to counsel for the class, and to report any

deficiencies with compliance of the Court's final judgment;

- D. For an award of damages, including actual, nominal, statutory, consequential, and punitive damages, as allowed by law in an amount to be determined;
- E. For an award of attorneys' fees, costs, and litigation expenses, as allowed by law;
- F. For prejudgment interest on all amounts awarded; and
- G. For such other and further relief as this Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiffs hereby demand a trial by jury on all claims so triable.

Dated: April 5, 2024

Respectfully submitted,

/s/ Joe Kendall

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